

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GREEN SOURCE HOLDINGS LLC,
Plaintiff,

vs.

KMP HOLDINGS, LLC D/B/A FRAC-
CHEM, LLC,
Defendant.

Civil Action No. 5:18-cv-01223

Jury Trial Demanded

**PLAINTIFF'S ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT**

Plaintiff Green Source Holdings LLC (“Green Source”) brings this Complaint against Defendant KMP Holdings, LLC d/b/a Frac-Chem, LLC (“Frac-Chem”) for patent infringement. In support, Green Source shows as follows:¹

¹ Green Source’s allegations relating to itself are based on personal knowledge, while Green Source’s allegations relating to Frac-Chem are made upon information and belief.

I. THE PARTIES

1. Green Source is a Delaware limited liability company with its principal place of business in Texas.

2. KMP Holdings, LLC d/b/a Frac-Chem, LLC is a Delaware limited liability company with a principal office located at 178 Pleasanton Park Lane, Pleasanton, TX 78064. KMP Holdings, LLC d/b/a Frac-Chem may be served through its registered agent: CT Corporation System, 1999 Bryan St., Suite 900, Dallas, TX 75201-3136.

II. JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Frac-Chem because it conducts business in this District, the State of Texas, and in the United States. This Court also has personal jurisdiction over Frac-Chem because it has committed acts of patent infringement, induced acts of patent infringement by others, contributed to patent infringement by others, and/or advertised infringing products in this District, the State of Texas, and in the United States. Frac-Chem is subject to the Court's general jurisdiction from regularly doing or soliciting business in this District and Texas, as

well as deriving substantial revenue from goods and services provided to persons or entities in this District and Texas.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Frac-Chem has committed acts of infringement here and maintains a regular and established place of business here through its office, lab, and plant located at 178 Pleasanton Park Lane, Pleasanton, TX 78064.² By way of example, Exhibit A is Frac-Chem Safety Data Sheets, which confirm the infringing products are manufactured here in this District (and Division) and, thus, sold and shipped from this District (and Division).

III. THE PATENTS-IN-SUIT AND STANDING

6. The United States Patent and Trademark Office duly and legally issued the following U.S. Patents after a full and fair examination, which are attached as exhibits and incorporated here by reference:

- U.S. Patent No. 8,101,812 (Exhibit B);
- U.S. Patent No. 8,272,442 (Exhibit C);
- U.S. Patent No. 8,404,107 (Exhibit D);
- U.S. Patent No. 8,522,876 (Exhibit E);
- U.S. Patent No. 8,685,234 (Exhibit F);

² Pleasanton is in Atascosa County, which is part of the San Antonio Division of the Western District of Texas.

- U.S. Patent No. 9,181,468 (Exhibit G);
- U.S. Patent No. 8,404,108 (Exhibit H);
- U.S. Patent No. 9,102,864 (Exhibit I); and
- U.S. Patent No. 9,416,645 (Exhibit J).

These patents are referred to collectively hereafter as the “Asserted Patents.”

7. Green Source is the owner of all rights of and to the Asserted Patents and possesses all rights of recovery for past, present, and/or future infringement of the Asserted Patents.

IV. FRAC-CHEM’S PATENT INFRINGEMENT

8. Green Source incorporates the preceding paragraphs by reference.

9. The Asserted Patents are valid and presumed valid under 35 U.S.C. § 282. The Asserted Patents are also enforceable.

10. Green Source has provided proper notice to Frac-Chem of its infringement. There is no limitation on damages.

11. Pursuant to 35 U.S.C. § 271(a), Frac-Chem has infringed one or more of the Asserted Patents’ claims by making, using, offering for sale, selling, importing, and/or renting Frac-Chem’s trade name “Alpha-K” line of products for use with enhanced oil and gas recovery and enhanced flowback applications. By way of example, further descriptions of Frac-Chem’s accused processes and products are

found in Frac-Chem's Safety Data Sheets (Exhibit A) and marketing brochure (Exhibit K), which are incorporated here by reference.

12. Additionally and/or alternatively, pursuant to 35 U.S.C. § 271(b) & (c), Frac-Chem has contributed to and/or induced infringement by direct and indirect third party customers by marketing, promoting (including providing instructions for use), selling, offering for sale, importing, and/or renting its processes and products described in ¶ 11, which fall within the scope of one or more of the Asserted Patents' claims, to these customers. At all relevant time periods, Frac-Chem had the requisite intent to be held liable for indirect infringement, including, but not limited to, having actual knowledge of the Asserted Patents and instructing its third party customers on the use of Frac-Chem's processes and products in an infringing manner.

13. Frac-Chem's acts of infringement have caused and will continue to cause Green Source damage. Frac-Chem is liable to Green Source in an amount that adequately compensates Green Source for Frac-Chem's infringement, which can be no less than a reasonable royalty together with interest and costs pursuant to 35 U.S.C. § 284.

14. Green Source's damage will continue unless and until enjoined by this Court. These infringing acts have caused and will continue to cause immediate and irreparable harm for which there is no adequate remedy at law.

15. Frac-Chem's infringement of the Asserted Patents has been willful pursuant to 35 U.S.C. § 284, entitling Green Source to enhanced damages. During all relevant time periods, Frac-Chem had knowledge of the Asserted Patents and chose to commit egregious acts of infringement of the Asserted Patents despite this knowledge.

16. This is an exceptional case pursuant to 35 U.S.C. § 285, entitling Green Source to its attorneys' fees and other litigation costs.

V. JURY DEMAND

17. Pursuant to Fed. R. Civ. P. 38, Green Source demands a jury trial of all issues so triable.

VI. PRAYER FOR RELIEF

18. WHEREFORE, Green Source prays for the following relief from the Court and Jury:

a. That the Asserted Patents be adjudged infringed by Frac-Chem under all applicable provisions of Title 35, United States Code;

b. That Frac-Chem, its officers, directors, employees, agents and all those acting in concert with Frac-Chem be enjoined, pursuant to 35 U.S.C. §283, from all future activities infringing the Asserted Patents, and/or inducing or contributing to the infringement of the Asserted Patents by others, including making, using, selling or offering for sale the claimed subject matter of the Asserted Patents;

c. That Frac-Chem be required to prepare and deliver to the Court a complete list of entities to whom Frac-Chem has sold or offered for sale any product that infringes the Asserted Patents;

d. That Frac-Chem be ordered to account to Green Source for all sales, revenues, and profits derived from its infringement of the Asserted Patents, pursuant to all applicable provisions of Title 35, United States Code;

e. That this Court hold Frac-Chem liable for its infringement and award Green Source its actual and compensatory damages, costs, expenses, and fees resulting from Frac-Chem's infringing activities, as provided by 35 U.S.C. § 284;

f. That this Court award Green Source prejudgment interest, post judgment interest, and costs of Court;

g. That this Court order that damages so found or assessed be enhanced or trebled as a result of Frac-Chem's willful, deliberate, wanton, and/or reckless infringement, as provided by 35 U.S.C. § 284;

h. That this Court order that, because this is an exceptional case, Green Source be awarded its reasonable and necessary attorneys' fees and other litigation costs incurred in connection with this action, as provided for by 35 U.S.C. § 285; and

i. That Green Source be awarded such other and further relief as may be just and appropriate.

Date: November 26, 2018

Respectfully submitted,

/s/Bradford T. Laney
Bradford T. Laney (lead counsel)
1800 Augusta Drive, Suite 300
Houston, TX 77057
713-429-8050 (telephone)
713-429-8045 (facsimile)
Email: blaney@raleybowick.com

**ATTORNEY FOR PLAINTIFF
GREEN SOURCE HOLDINGS LLC**

CERTIFICATE OF SERVICE

The undersigned counsel certifies that Defendant will be served with a copy of this Complaint pursuant to the Federal Rules of Civil Procedure.

/s/ Bradford T. Laney
Bradford T. Laney